

REMARKS

Reconsideration of the application in view of the above amendments and following remarks is respectfully requested.

As a preliminary matter, please note that included herewith are copies of the following documents which were included with the filing of the instant continuation application: Petition to Correct Inventorship, a Declaration by John M. Reno, Louis J. Theodore and Linda M. Gustavson, and a Supplemental Declaration by Donald B. Axworthy, both Declarations as submitted in the case of U. S. Patent Application No. 08/122,979. Applicants also note that the original Application Data Sheet, as filed, is available in PAIR. Please note that submitted herewith is a Supplemental Application Data Sheet, wherein the changes are not related to inventorship, but include providing the Application Number and Filing Date, updating the Attorney Docket Number, providing the subsection of 37 CFR § 1.48 under which the original Petition to Correct Inventorship was filed, and updating the Assignee Information.

Claims 16-19 are pending in the subject application. Claims 18-19 have been amended. Support for the amended language is found, in part, at page 50, lines 25-29 and at page 158, line 34, to page 159, line 12 of the instant application. No new matter has been added. Therefore, claims 16-17 and amended claims 18-19 are now pending.

The Examiner has asserted that the oath or declaration is defective due to uncertainty as to which of the submitted copies of declarations and supplemental declarations were intended to be the declaration for the instant continuation application. The Examiner further asserts that it is unclear who the inventors are. Applicants apologize for the numerous copies of Declarations that may have contributed to confusion over inventorship in this case. It does appear, however, that confusion has primarily arisen due to the fact that the originally filed Petition to Correct Inventorship, which was filed with the instant continuation application, as filed, was mistakenly processed in the parent case. (Applicants draw the Examiner's attention to the resulting Communication, Paper No. 16, issued in the parent case.) The Application Data Sheet, as originally filed, correctly identifies the inventors in this instant continuation application to be Donald B. Axworthy, Louis J. Theodore, Linda M. Gustavson, and John M. Reno. Donald B. Axworthy had been included as an inventor on earlier priority applications, but was not included as an inventor on application 09/920,454, the immediate prior application to the instant

continuation application. The Petition to Correct Inventorship was filed in the instant case to add Donald B. Axworthy back as the first listed inventor due to the claims being pursued. Applicants submit that the Application Data Sheet, the Petition to Correct Inventorship, and the Declarations, as included with the filing of the instant continuation application, correctly identify the inventorship. Applicants request reconsideration by the Examiner.

The disclosure stands objected to because the continuation data, which had been inserted at page 1 by Preliminary Amendment filed February 10, 2004, does not indicate the current status of application 09/920,454. As set forth above, the Amendment to the Specification provides the number of the patent that has now issued therefrom.

Claims 16-19 were rejected under 35 U.S.C. § 102(f), apparently due to confusion over the identity of the actual inventors. Applicants submit that, in view of clarification of the question of inventorship provided above, this rejection is now moot. Applicants thus respectfully request reconsideration and withdrawal of the rejection by the Examiner.

Claims 18-19 were rejected under 35 U.S.C. § 101 as claiming the same invention as that of claims 5-6 of prior U.S. Patent No. 5,608,060. Applicants have amended claims 18 and 19 so that they are no longer coextensive in scope with claims 5-6 of U.S. Patent No. 5,608,060. Applicants thus respectfully request reconsideration and withdrawal of the rejection by the Examiner.

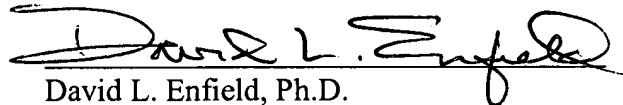
Claims 16-17 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 4 of U.S. Patent No. 5,608,060. Claims 16-19 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 5,955,605. Without addressing or conceding the merits of this rejection, in order to expedite allowance of claims 16-17 and of amended claims 18-19, Applicants have submitted herewith a terminal disclaimer. The terminal disclaimer refers to both U.S. Patents identified above which form the bases for this rejection.

Therefore, in light of the remarks set forth above, Applicants believe all the Examiner's rejections have been overcome. Reconsideration and allowance of the pending claims (16 -19) are respectfully requested.

The Director is hereby authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090. If there is any further matter requiring attention prior to allowance of the subject application, the Examiner is respectfully requested to contact the undersigned (at 206-622-4900) to resolve the matter.

Respectfully submitted,

SEED Intellectual Property Law Group PLLC



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Enclosures:

Terminal Disclaimer
Copy of Petition to Correct Inventorship
Copy of Declaration
Copy of Supplemental Declaration
Supplemental ADS